
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

I.T.R. No. 138 of 1989

Date of decision: 11.1.2007

The Commissioner of Income-Tax(Central), Ludhiana

...Petitioner

Versus

Smt.Rehti Devi

...Respondent

**CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL**

Present: Mr.S.K.Garg Narwana, Advocate for the Revenue.

RAJESH BINDAL,J.

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Delhi Branch 'E', Delhi (for short "the Tribunal), arising out of its order dated 27.1.1988 passed in I.T.A.No.802(Chd.)/85 in respect of the assessment year 1980-81.

“Whether on the facts and circumstances of the case, the Income-tax Appellate Tribunal was right in law in holding that the amount of interest accruing to the assessee's son is not includable in the income of the assessee (his mother) as per the provisions of Sec.64 (1) (iii)?”

The Tribunal while accepting the appeal of the assessee recorded following finding:-

“We find from a perusal of the partnership deed dated 4.4.1967 in this case that clause 6 thereof refers to the investment of capital by all the parties but it cannot be said that the minor was liable to invest capital as the preamble to the said partnership deed does not refer to

the minor as a party but only to the other major partners namely, S/Shri Som Parkash Gupta, Parshotam Dass and Raj Kumar as the first, second and third parties. The interest in this case was earned on deposit and on the accumulation of the profits of the minor. Therefore, in terms of section 64(1)(iii) it could not be said that the interest income arose directly and indirectly to the minor from his admission to the benefits of partnership in this firm in question. In the case of Triveni Devi (supra), the Hon'ble Allahabad High Court had duly considered the decision of the Supreme court in the case of S.Srinivasan (supra) and it was held that in order to bring a case u/s 64 (ii) (as it then was), it was for the department to establish a connection between the partnership of the minor and the receipt of the interest on the money brought in by the minor. There the amount of interest was held to be not taxable in the hands of the mother as the money brought in by the minor was not in the nature of capital. We are, therefore, of the view that the said amount of interest was not taxable in the hands of the assessee u/s 64 (1) (iii).”

We find that the amount of income in dispute in the present case is merely Rs. 4,940/-. The tax effect will still be meager.

Keeping in view the smallness of the amount involved, we do not consider it appropriate to go into the merits of the question of law referred.

The reference is thus returned unanswered.

(Rajesh Bindal)
Judge

January 11,2007
Pka

(M.M.Kumar)
Judge
